

Letter of Appeal
Federal Communications Commission
Office of the Secretary
c/o Natek
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002

1/26/2010

Received & Inspected

CC: 02-6

FEB -3 2010

FCC Mail Room

Re: Letter of Appeal of Funding Commitment Decision Letter for funding Year 2009, issued November 24, 2009.

Dear Sir or Madam:

I am submitting this letter of appeal regarding denial of E-rate FY 2009 funding request for Telecommunications Service, on the grounds that, Whaleback Systems' Information was submitted on June 16, 2009 and again on September 28, 2009. Also an email confirmation was submitted to the vendor on January 22, 2010 approving them as an eligible service provider.

Appellant Name:	Erate Exchange, LLC
Applicant Name:	Burlington County Special Services District
471 Application Number:	671143
Billed Entity Number:	123231
FRN:	1831840
Service Provider:	Whaleback Systems

SLD Explanation for denial: *"In consultation with the applicant the service provider has been changed to Whaleback Systems Corporation, SPIN 143033095. Applicant has not provided sufficient documentation to determine the eligibility of this item. No documentation was provided for non-compliant telecom provider."*

The issue in this case boils down simply to this: The denial of funding was based on an administrative error and lack of communication during Program Integrity Assurance (PIA) as the information in regards to Whaleback Systems was submitted via E-mail on June 16, 2009 and again on September 28, 2009. Also an email confirmation was submitted to the vendor on January 22, 2010 approving them as an eligible service provider under a different SPIN (143033246). We have included another copy for your records. We did not receive a request for additional information about Whaleback Systems again, and have not heard anything else in regards to this matter until the FCDL was issued and the appeal denied. Based on the Bishop Perry Order, we request FRN 1831840 be funded and USAC actions remain consistent with this order.

Given that the denial of funding in this case was based on merely an administrative error, regarding the submission of Whaleback Systems' Service Provider Information, the Parties respectfully request that the SLD process this Letter of Appeal and approve the funding commitment for Burlington County Special Services District. The denial of funding for an administrative error places a particular hardship on a school district such as Burlington County Special Services District that otherwise should have been approved for and received E-rate funding for its application.

We respectfully request that you overturn the denial and restore full funding of this FRN. Thank you for reviewing this appeal. Please use the contact information below.

Shari Dwyer Phillips, President, E-rate Exchange, LLC, PO Box 451, Syracuse, NY 13206, Tel. 315.422.7608, Fax 866.283.9332, sdp@erateexchange.com

Sincerely,
E-rate Exchange, LLC
Ms. Shari D. Phillips
President

CC: Enclosures – Emails from June 16, 2009 and September 28, 2009 for FRN 1832740. Along with the email approving Whaleback Systems as an eligible service provider.

Amanda Boyle

From: Shannon Griffin [smg@erateexchange.com]
Sent: Thursday, June 18, 2009 3:21 PM
To: aapatel@sl.universalservice.org
Cc: 'Shari Phillips'
Subject: FW: ERate App# 671143 - Burlington County -response
Attachments: Burlington County Item 21 Attachments.pdf, USAC_LOA_03_12_09.pdf

Hello Arvind,

Please see the below message that has been altered along with the attached documentation in regards to App#671143 Burlington County.

Thank You,
Shannon Griffin

From: Patel, Arvind [mailto:AAPATEL@sl.universalservice.org]
Sent: Wednesday, June 17, 2009 9:17 AM
To: Shari D Phillips@l--
Cc: sdp@erateexchange.com
Subject: ERate App# 671143

Good morning Shari,

Please refer to the attached letter for further information needed for your FY2009 E-rate Funding Application #671143 .

Please submit the requested information by the due date indicated at the bottom of the attached letter. If you have any questions or concerns, please do not hesitate to contact me.

Thank you and have a good day.

Arvind Patel
Schools & Libraries

Jun 17, 2009

Shari D Phillips

BURLINGTON CO SPECIAL SVC DIST

Telephone:

(315) 4227608

Application Number

671143

Response Due Date: 7/2/2009

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2009 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2009 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below

I.

USAC has not yet received the Item 21 Attachments for your FY2009 Form 471 application # 671143. In order to process the Form 471, we must receive the Item 21 Attachments.

Please see the attached documentation.

If you are unsure what constitutes an Item 21 Attachment, please refer to the Form 471 Instructions available at: Step 7: Submit Application for Support
<http://www.universalservice.org/sl/applicants/step07/form471-attachments.aspx>
<<http://www.universalservice.org/sl/applicants/step07/form471-attachments.aspx>>

If you have not yet submitted the Item 21 Attachments, please do so using our online system available at
www.sl.universalservice.org/menu.asp
<<http://www.sl.universalservice.org/menu.asp>> and then notify us when you have completed and submitted the Online 21 Attachment. If you prefer, you may forward the Item 21 Attachments to our attention at the fax number indicated below.

If you have already submitted the Item 21 Attachments, please fax an EXACT COPY of the Item 21 Attachments that were previously submitted. We will process your application once the Item 21 Attachments are available in our online system or have been imaged into our system.

II.

For FRN(s) 1831840 & 1831851, we have not received the replacement Service Provider Identification Number ("SPIN") for temporary SPIN 143000000. A valid SPIN is required before a Funding Commitment Decision Letter can be issued for this FRN. Please provide signed documentation on letterhead indicating the following SPIN information:

FRN(s), valid SPIN, and the service provider name. This information must match the service provider that was indicated on the Item 21 Attachments or the FRN will be denied.

Service Provider: Whaleback Systems Corporation
SPIN: 143033095
FRN(s): 1831840
1831851

Please fax or email the requested information to my attention. If you have any questions or you do not understand what we are requesting, please feel free to contact me.

It is important that we receive all of the information requested within 15 calendar days so we can complete our review. Failure to respond may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Date Sent: 6/17/2009

Date due for items requested: 7/2/2009

Thank you for your cooperation and continued support of the Universal Service Program.

Arvind Patel

Schools & Libraries

973-581-7609 - Phone

973-599-6538 - Fax

aapatel@sl.universalservice.org

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No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 8.5.339 / Virus Database: 270.12.77/2184 - Release Date: 06/18/09 05:53:00

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 8.5.339 / Virus Database: 270.12.78/2185 - Release Date: 06/18/09 05:53:00

Amanda Boyle

From: Amanda Boyle [alb@erateexchange.com]
Sent: Monday, September 28, 2009 1:14 PM
To: aapatel@sl.universalservice.org
Cc: 'Shari Phillips'
Subject: FW: ERate App# 671143 Burlington County
Attachments: image002.gif; image003.gif; image002.gif; image001.jpg

Hello Arvind,

I have spoken with the service provider in regards to App# 671143 and they have filled out their form 498 and 499. They will be mailing it to you by Fed Ex shortly. If this information needs to be verified please contact Anita Blanchard at anita@whalebacksystems.com.

Thank You,
Amanda Boyle

Amanda Boyle
Office Assistant
E-Rate Exchange
alb@erateexchange.com
Phone: 315-422-7608 ex.105
Fax: 866-283-9332

From: Shannon Griffin [mailto:smg@erateexchange.com]
Sent: Friday, September 18, 2009 2:30 PM
To: 'Amanda Boyle'
Subject: FW: ERate App# 671143 Burlington County

From: Patel, Arvind [mailto:AAPATEL@sl.universalservice.org]
Sent: Tuesday, September 15, 2009 1:43 PM
To: Shari D Phillips@1-866-283-9332
Cc: sdp@erateexchange.com; Shannon Griffin
Subject: ERate App# 671143

Good afternoon Shari/Shannon,

Please refer to the attached letter for further information needed for your FY2009 E-rate Funding Application #671143.

Please submit the requested information as soon as possible so we can complete the initial review process of your application or by the due date indicated at the bottom of the attached letter. If you have any questions or concerns, please do not hesitate to contact me.

Thank you and have a good day.

Arvind Patel
Schools & Libraries

Sep 15, 2009

Shari D Phillips
BURLINGTON CO SPECIAL SVC DIST
Telephone:
Application Number

(315) 4227608
671143

Response Due Date: 9/30/2009

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2009 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2009 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below

You have listed **Whaleback Systems – SPIN # 143033095** as your service provider for **FRN 1831840 & 1831851**. This service provider is not an eligible common carrier, because they have not properly filed the required Form 498. Their Form 498 is missing the common carrier's Form 499 filer ID number. To resolve this situation you may take one of the following actions:

- Contact your service provider and request that they properly file their Form 498. If your service provider does not properly file the required Form 498, your FRN will be denied.
- Perform an Operational SPIN change. For FRN **1831840 & 1831851** please respond in writing and indicate that you desire to remove the (ineligible) SPIN and service provider name and provide the (eligible) SPIN and service provider name. Add a note identifying this as an Operational SPIN change.

PLEASE NOTE: Failure to respond to this request, or selecting a service provider that is not eligible to provide such services will result in a denial of the request.

For assistance obtaining a new SPIN please contact:

Billing, Collections & Disbursement Department
Universal Service Administrative Company
Attn: Billing, Collections & Disbursement
2000 L Street, N.W.
Suite 200
Washington, D.C. 20036
Toll Free: (888) 641-8722
Fax: (888) 637-6226
Via E-Mail: customerservice@bcd.usac.org

For additional information, see the USAC website at: <http://www.usac.org/sl/about/changes-corrections/spin-change-guidance.aspx>.

Please fax or email the requested information to my attention. If you have any questions or you do not understand what we are requesting, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review. **Failure to respond may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.**

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any

cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Date Sent: 9/15/2009

Date due for items requested: 9/30/2009

Thank you for your cooperation and continued support of the Universal Service Program.

Arvind Patel

Associate Manager - Initial Review

USAC - Schools & Libraries Division

973-581-7609 - Phone

973-599-6578 - Fax

aapatel@sl.universalservice.org

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No virus found in this incoming message.

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Version: 8.5.409 / Virus Database: 270.13.96/2369 - Release Date: 09/15/09 05:59:00

No virus found in this incoming message.


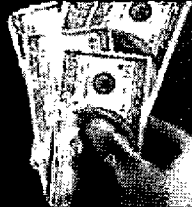
Checked by AVG - www.avg.com

Version: 8.5.409 / Virus Database: 270.13.111/2386 - Release Date: 09/21/09 05:51:00

Amanda Boyle

From: Anita Blanchard [anita.blanchard@whalebacksystems.com]
Sent: Friday, January 22, 2010 2:07 PM
To: Amanda Boyle
Subject: FW: You Have Been Added to SPIN 143033246 as the General Contact

Anita Blanchard
Accounting Manager
Whaleback Systems
CrystalBlue Voice: (603) 812-0427
OrcaFax: (603) 812-4627
Anita@whalebacksystems.com

 whaleback SYSTEMS Referral Program	We want to give you \$500 www.whalebacksystems.com/referrals	
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From: form498@univeralservice.org [mailto:form498@univeralservice.org]
Sent: Thursday, January 21, 2010 10:23 AM
To: Anita Blanchard
Subject: You Have Been Added to SPIN 143033246 as the General Contact



SPIN CHANGE NOTIFICATION FROM USAC

Your e-mail address was listed as the General Contact on a recently approved Form 498. The form details are:

SPIN	143033246
Company Name	Whaleback Systems Corporation
Date Approved	1/21/2010 10:21:15 AM

To view or revise your company's Form 498, or to request a new SPIN, go to the USAC [E-File System](#) and log in.

IMPORTANT: This SPIN has delegated users with authorization to view, update, and submit FCC forms. These delegated users were created by the previous certifying officer for this SPIN and are now temporarily assigned to your new user account.

Your Company Officer must officially accept or reject these delegated users by going to the USAC E-File System and logging in. On the Information Center Screen, they can click on Pending Users on the left side (under Authorized Users) and follow the instructions for accepting and rejecting these delegated users.

If no action is taken within 14 days, these delegated users will be deleted from this SPIN.

If you have any questions, please contact USAC at **(888) 641-8722** or CustomerSupport@usac.org. You may also visit us at www.usac.org/fund-administration.

Note: Use of your USAC Online account is optional. If you don't want to use your account, and don't want to receive further e-mails about your account, you can Unsubscribe.

NEED MORE INFORMATION?

- **Obtain a Service Provider ID Number**
- **Revise Your SPIN**
- **Form 498 Requirements**